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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/970,161

10/02/2001

Steven Wahlbin

5053-46912

9581

35690

7590

10/28/2009

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.

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EXAMINER

GOTTSCHALK, MARTIN A

ART UNIT

PAPER NUMBER

3696

NOTIFICATION DATE

DELIVERY MODE

10/28/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent_docketing@intprop.com

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Office Action Summary	Application No. 09/970,161	Applicant(s) WAHLBIN ET AL.	
	Examiner MARTIN A. GOTTSCHALK	Art Unit 3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 753-801 and 853-860 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 753-801 and 853-860 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/01/2009 x 3</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. Claims 753-801 and 853-860 are pending. These claims are potentially allowable over the prior art subject to the double patenting rejection herein.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 753, 800, and 801 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable respectively over claims 743, 751, and 752 of copending Application No. 09/969,019; over claims 634, 651, and 652 of copending Application No. 09/969,022; and over claims 583, 632, and 633 of copending Application No. 09/970,161. All of the claims include certain

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central features such as determining a liability of a vehicle accident by comparing characteristics from real and past or theoretical accidents to determine a base liability. The characteristics of the accident include the roadway configuration of the accident, the accident type which shows the relationship of the paths of the vehicles in the accident, and impact points on the vehicles in the accident. However, the recitations of these claims are not precisely identical. Nonetheless, even though they are not identical, neither are they patentably distinct from each other.

For example, it is well known in the art that determining the right-of-way is important in determining liability in an accident since a party in an accident having the right of way will legally be presumed to not be at fault for causing the accident as compared to a party not having the right of way. Indeed, right-of-way is one of the primary aspects of an accident a law enforcement professional will try to determine when assessing whether to issue a ticket for one or more parties following an accident.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to include right-of-way in an estimate of liability in an accident in order to incorporate legal culpability into an estimate of financial liability for an accident.

As another example, it is well known in the art to incorporate adjustments based on additional factors into an estimation of liability. Such factors may include those factors known to a claims adjuster based on extensive experience with assessing vehicle accidents.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to include adjustments provided by factors known to an adjuster so as to take advantage of the adjuster's professional knowledge and experience.

As an additional example, it is well known in the art to combine impact points into impact groups. For example, a region of a vehicle (e.g. rear-end, front-end, driver's side, etc) is typically composed of parts (e.g. the rear-end may include a bumper and trunk hood; a side of a car may include a door and a fender). These parts (i.e. points) may be combined into groups in order for an adjuster to more conveniently specify the repairs needed on a car, and to attach a dollar figure to these repairs.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to include combining impact points into impact groups in order to provide efficient assessment of the cost of a damaged vehicle.

As a final example, it is well known in the art to provide claim data through a GUI by displaying a request for information through the GUI, and receiving information via a user entering a selection into the GUI, as has been practiced in the art for many years.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to include use of a GUI to efficiently collect claim-related information about an accident by way of a computer interface, the use of which would be intuitive to many users.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARTIN A. GOTTSCHALK whose telephone number is (571)272-7030. The examiner can normally be reached on Mon - Fri 10:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A. G./
Examiner, Art Unit 3696

/C. Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626